

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of
Florence VIAUD

Application No.: 10/574,352

Confirmation No.: 5722

Filed: July 10, 2006

Art Unit: 1781

For: CHEESE-MAKING METHOD

Examiner: BADR, HAMID R

DECLARATION SUBMITTED UNDER 37 C.F.R. § 1.132

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Florence VIAUD, **Brand Innovation Research and Development Department,**
Bel group, France, do hereby declare the following:

I have attached a copy of my curriculum vitae to this Declaration.

I am **Product development manager** and I'm working in this department for 10
years.

I am the inventor and am familiar with the above referenced patent application, as well
as the methods and processes for manufacturing cheese products, in particular processed or
natural cheeses.

I have read and understand the subject matter of the Office Action of March 2, 2011.

The following comments are offered in support of the patentability of the instant
invention.

The Examiner has rejected claims 1-24 in the above referenced application as being obvious over DAHLSTROM *et al.* (U.S. Pat. No. 6,319,526) in view of KHARRAZI (U.S. Pat. No. 4,719,113).

I respectfully disagree.

The Examiner has cited DAHLSTROM *et al.* on the basis that it would disclose a method for producing a mozzarella type cheese which would comprise a step wherein a fermented milk product, including yogurt, is added to comminuted curd.

DAHLSTROM *et al.* disclose a process of manufacturing a mozzarella or mozzarella-like cheese comprising (see column 5, 3d paragraph):

- i) grinding the curd; and
- ii) working the curd, i.e. heating between 57 and 67°C and mechanically kneading and stretching the curd to a viscous molten state wherein the curd wherein the curd develops into fibrous mass.

DAHLSTROM *et al.* also teach that dairy ingredients may be added, but they clearly indicate that such an addition is done prior to working of curd (see column 4, in the last paragraph but one), which means that the dairy ingredients are subjected to the heating of step ii), thus that the mozzarella or mozzarella-like cheese obtained does not contain a live flora.

I point out that the method for producing a cheese product according to claim 1 comprises a step c) wherein the fresh fermented milk product is incorporated in the cheese mass obtained by heating the drawn-curd cheese (also named "pasta filata type cheese" as

stated on page 5 of the application) between 60°C and 70°C in step b) only after the cheese mass has been cooled to a temperature which does not destroy the flora of the fresh fermented milk product.

Therefore, the claimed method and the method disclosed by DAHLSTROM *et al.* differ in that:

i) the final dairy product obtained with the method of DAHLSTROM *et al.* would not contain any live flora, whereas the final cheese product of the claimed method contains a rich flora and has the taste of a fresh fermented milk product; and

ii) the starting materials of both methods are different (grinding the curd vs pasta filata type cheese such as mozzarella), and the final dairy product obtained with the method of DAHLSTROM *et al.* is different of the final cheese product of the claimed method since the final dairy product of DAHLSTROM *et al.* (i.e. mozzarella or mozzarella-like cheese) is the starting material used in the claimed method (drawn-curd cheeses, i.e. pasta filata type cheese such as mozzarella, provolone, and cacciocavallo).

KHARRAZI teaches a method for producing mozzarella yogurt (see column 3, lines 52-59). The method utilizes as a starting material a liquid composed of milk or water mixed with a dry mixture (comprising for instance dehydrated yogurt powder, casein, tofu, vegetable fat, skin milk and whey) and heated to about 82°C. The resulting mixture is then cooled to about 37°C before being added with yogurt.

Because the starting material is heated to 82°C, the produced mozzarella yogurt can not have a fibrous texture (such a high temperature destroys the fibrous texture as specified in

the present application on page 9). Actually, the final dairy product has the texture of a yogurt.

On the contrary, the purpose of the method of DAHLSTROM *et al.* is to produce a mozzarella type cheese, i.e. a cheese with a fibrous texture.

Therefore, since the purpose of the process of KHARRAZI is completely different from the process of DAHLSTROM *et al.*, the skilled person would not have contemplated combining DAHLSTROM *et al.* and KHARRAZI.

Furthermore, for the sake of argument, even if the person skilled in the art had combined the method of DAHLSTROM *et al.* with the teaching of KHARRAZI, the resulting method would have been as follows:

- i) grinding the curd;
- ii) working the curd, i.e. heating between 57 and 67°C and mechanically kneading and stretching the curd to a viscous molten state wherein the curd develops into fibrous mass;
- iii) decreasing the temperature of the curd of step ii) to approximately 37°C; and
- iv) mixing the cooled curd of step iii) with yogurt.

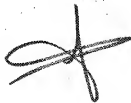
It is clear that the above-recited method is different from the claimed method since the starting materials of both methods are different (grinding the curd vs pasta filata type cheese such as mozzarella), which implies that the final dairy products are also different.

Therefore, it is my opinion that the subject-matter of claims 1-24 in the above referenced application is not obvious over DAHLSTROM *et al.* (U.S. Pat. No. 6,319,526) in view of KHARRAZI (U.S. Pat. No. 4,719,113).

The undersigned hereby declares that all statements made herein based upon knowledge are true, and that all statements made based upon information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

DATED: 5th july 2011 _____

F. VIAUD

A handwritten signature in black ink, consisting of a stylized 'F' followed by a large, sweeping loop that crosses over itself.